



EX PARTE OR LATE FILED

DOCKET FILE COPY ORIGINAL

GALE A. NORTON
Attorney General

STEPHEN K. ERKENBRACK
Chief Deputy Attorney General

TIMOTHY M. TYMKOVICH
Solicitor General

STATE OF COLORADO

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STATE SERVICES BUILDING
1525 Sherman Street - 5th Floor
Denver, Colorado 80203
Phone (303) 866-4500
FAX (303) 866-5691

RECEIVED

July 12, 1994

JUL 15 1994

FCC MAIL ROOM

William F. Caton
Acting Secretary
Federal Communications Commission
1919 "M" Street N W Room 222
Washington D C 20554

RE: Ex Parte Meetings
Docket Nos. 91-281, 92-77✓ and other matters

Dear Mr. Caton:

On July 6, 1994 and July 7, 1994 representatives of the National Association of State Utility Consumer Advocates (NASUCA) namely, Ron Binz and Debra Berlyn, met with Chairman Reed Hundt, Commissioner Rachelle Chong, Commission Susan Ness and Acting Chief of the Common Carrier Bureau, Richard Metzger to discuss NASUCA's views in the above-cited proceedings and other matters. The discussion covered points already raised on the record in Docket No. 91-281 and No. 92-77 and on the following attachments. The attached outline describes the matters and the basis for the discussions on July 6 and July 7, 1994.

Sincerely,

James R. Lewis, Esq.
Senior Assistant Attorney General
State of Colorado Department of Law
Counsel for the
Colorado Office of Consumer Counsel

Re: Attachments
cc: Ron Binz
Debra Berlyn

No. of Copies rec'd 04
List ABCDE

RECEIVED

OUTLINE

JUL 15 1994

Chairman Reed Hundt
July 6, 11:15 AM
Subjects discussed:

FCC MAIL ROOM

Caller ID reconsideration request of NASUCA (copy of NASUCA motion was provided; already in record) CC Docket No. 91-281

Billed Party Preference resolution of NASUCA (copy was provided) Docket 92-77 Phase II (Billed Party Preference)

800 number customer billing resolution of NASUCA (copy was provided) (No existing docket referenced)

General comments about cost allocation as applied to the pending video dialtone proposals. There are pending VDT proposals and also a pending petition for rulemaking filed by the Consumer Federation of America and the National Cable Telephone Association. NASUCA is not a party to these cases.

Commissioner Rachelle Chong
July 6, 4:30 PM
Subjects discussed:

Caller ID reconsideration request of NASUCA (copy of NASUCA motion was provided; already in record)

Billed Party Preference resolution of NASUCA (copy was provided)

800 number customer billing resolution of NASUCA (copy was provided)

Commissioner Susan Ness
July 7, 10:30
Subjects discussed

Caller ID reconsideration request of NASUCA (copy of NASUCA motion was provided; already in record)

Billed Party Preference resolution of NASUCA (copy was provided)

800 number customer billing resolution of NASUCA (copy was provided)

Acting Chief of Common Carrier Bureau
Richard Metzger
July 7, 11:30 A M
Subjects discussed:

Caller ID reconsideration request of NASUCA (copy of NASUCA motion was provided; already in record)

Billed Party Preference resolution of NASUCA (copy was provided)

800 number customer billing resolution of NASUCA (copy was provided)

EX PARTE OR LATE FILED

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

RECEIVED

JUL 15 1994

IN THE MATTER OF : FCC MAIL ROOM
:
RULES AND POLICIES REGARDING :
CALLING NUMBER IDENTIFICATION : CC Docket No. 91-281
SERVICE - CALLER ID :

PETITION FOR RECONSIDERATION
OF THE NATIONAL ASSOCIATION OF
STATE UTILITY CONSUMER ADVOCATES

Irwin A. Popowsky
Consumer Advocate of Pennsylvania

Mary C. Kenney
Assistant Consumer Advocate

For:
National Association Of State
Utility Consumer Advocates
1133 15th Street, N.W.
Suite 575
Washington, DC 20005
(202) 727-3908

Pennsylvania Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120
(717) 783-5048

DATED: May 16, 1994

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	INTEREST OF NASUCA	2
III.	REQUEST FOR RECONSIDERATION	4
	A. BASIS FOR RECONSIDERATION	4
	B. PRIOR STATE ACTIONS	9
	C. INADEQUACY OF CPE REMEDY	16
IV.	CONCLUSION	18

I. INTRODUCTION

The National Association of State Utility Consumer Advocates (NASUCA) urges the Federal Communications Commission (FCC or Commission) to reconsider its Report and Order released in the above-captioned proceeding on March 29, 1994, and publicly noticed in the Federal Register of April 18, 1994. NASUCA respectfully submits that the Commission's Order may unnecessarily and improperly preempt the valid efforts of the states to balance the privacy interests of callers and called parties with respect to the blocking of calling party number information on Caller ID. The Commission's Order calls into question the statutes, regulations, or regulatory orders of more than three dozen states which provide at least some callers in those states with the option of utilizing a "per-line blocking" mechanism in order to protect the privacy of calling number information. For the reasons set forth below, NASUCA submits that the Commission's Order should be reconsidered, and thereafter amended, to permit the use of per-line blocking on interstate calls originating in those states in which per-line blocking is permitted for intrastate calls. NASUCA urges that the FCC allow calling number privacy requests to be honored on interstate calls regardless of whether those requests are generated on a per-call or per-line basis.

II. INTEREST OF NASUCA

NASUCA is a national organization whose members are authorized by their respective state governments to represent the interests of utility consumers before state and federal regulatory agencies and courts. NASUCA members come from 37 states and the District of Columbia. NASUCA members have been at the forefront of the state regulatory and legislative debates over Caller ID that have occurred across the Nation over the last five years. NASUCA members generally have supported efforts in their states to insure that the privacy rights of callers are protected by giving individuals the ability to block the passage of their telephone numbers on a per-call and in many cases per-line basis.

NASUCA seeks reconsideration of the FCC Order at issue here because that Order threatens to undo the balancing of privacy interests that NASUCA members have strived to obtain in many states. By prohibiting the use of per-line blocking on interstate calls, the FCC Order would at best create a confusing situation for individuals in states where callers can obtain per-line blocking on intrastate calls through their local exchange companies. At worst, the FCC Order would effectively preempt those states which have permitted per-line blocking because it may not be technically feasible to implement a blocking mechanism which distinguishes between intrastate and interstate calls.

On behalf of the consumers represented by NASUCA members across the Nation, NASUCA urges the FCC to reconsider its position and to permit individuals in states which permit per-line blocking

on intrastate calls to utilize those same per-line blocking mechanisms on interstate calls as well.

III. REQUEST FOR RECONSIDERATION

A. BASIS FOR RECONSIDERATION

In its Report and Order of March 29, 1994, the FCC concludes that "automatic per call blocking is the most responsive alternative to the needs of calling and called parties for interstate calls." Order, ¶38. This finding, in and of itself, is not inconsistent with the rulings in some states which have addressed Caller ID and have concluded that per-call blocking is an adequate response to the privacy concerns of the calling party. The FCC Order goes on to reject arguments by some commenters that per-line blocking should be mandated on an interstate basis. While NASUCA members generally support the availability of per-line blocking, we do not seek reconsideration of the FCC's refusal to mandate this service. The problem, however, arises when the FCC takes the next step and actually prohibits the use of per-line blocking on interstate calls. Thus, in Paragraph 43, the Order states: "Thus, carriers may not offer per line blocking as a privacy protection mechanism on interstate calls." (Emphasis added). Assuming that the "carriers" in this sentence include local exchange carriers, who are currently the only companies which provide Caller ID service, this ruling gives rise to only two alternatives, both of which are unacceptable and unnecessary in NASUCA's view.

Specifically, if local exchange carriers are prohibited from allowing the use of per-line blocking on interstate calls, then carriers in those states that permit per-line blocking must

either develop separate mechanisms for the blocking of intrastate vs. interstate calls from the same telephone; or, if that is not possible, those carriers must simply refrain from offering per-line blocking at all, since the federal rule would ostensibly preempt the states.

As to the first alternative, the FCC Order itself acknowledged that many commenters, including both local and interexchange carriers, "contend that existing technology renders it infeasible for carriers to comply with one set of blocking requirements for intrastate and a different set of standards for interstate caller ID." Order, ¶66. In Comments which are also referenced in that same paragraph, Bell Atlantic advised the FCC that:

Existing central office switch software cannot accommodate one standard for blocking on intrastate calls and a different standard for interstate calls....The reason is that the SS7 software does not distinguish interstate calls from intrastate calls when transmitting the privacy indicator, which determines whether a number is displayed on a Caller ID set.

Moreover, substantial developmental effort and expense over a period of several years would be required to design and implement the SS7 protocol required to accommodate inconsistent interstate and intrastate standards.

Bell Atlantic Comments at CC Docket 91-281 at 12-13 (January 6, 1992).

But even if it were technically feasible to establish separate intrastate and interstate blocking mechanisms for each telephone, NASUCA questions whether it makes any sense at this

point to do so. As noted below, most states have now ruled on the privacy protections that should be made available to callers within their states on the great majority of calls that they make -- that is, local, intrastate calls -- and a majority of those states permit at least some form of per-line blocking. It would be extremely confusing at best for persons who subscribe to per-line blocking to be told that the blocking will only work on some calls but not others. There is little to be gained and much confusion to be added if callers are told that they must nevertheless dial a separate privacy code on interstate calls even if their phones are equipped with per-line blocking.¹

On the other hand, assuming that Bell Atlantic and other commenters are correct that it is not technically feasible to utilize separate blocking methods for intrastate and interstate calls, then it would be an even worse result if state rules were therefore preempted by the federal "prohibition" against per-line blocking. Clearly, it would be preferable if the FCC rules simply required the privacy indicator to be honored on interstate calls

¹ Confusion would be especially great for customers in those states where the *67 code is utilized for per-call unblocking of calls which are blocked on a per-line basis. See FCC Order at ¶ 47. Under the proposed rule, callers who subscribe to per-line blocking for their local exchange company would be required to dial *67 when they wish to unblock a local call, while remembering to dial *67 to block an interstate call. The solution to this problem is not, as the FCC suggests, to prohibit per-line blocking, but rather to allow the existing intrastate blocking and unblocking mechanisms to work on interstate calls as well. In addition, states which have this system in place may wish to consider recent improvements to Caller ID technology (such as have been implemented in Pennsylvania and Arizona) which utilize a different code (*82) for per-call unblocking of blocked lines.

whether that indicator is generated on a per-call or per-line basis. After allowing the states to so thoroughly occupy the field on this issue, it is particularly difficult to justify FCC preemption of the many state per-line blocking requirements that are already in effect.²

While the FCC Order at paragraph 70 refers to "the paramount federal interest in a cohesive interstate communications policy," NASUCA submits that this interest is not compromised by giving deference to existing state rules on per-line blocking. The great majority of calls made and calls received by most Americans are local and intrastate in nature. The state commissions and legislatures are in the best position to determine how to balance the privacy and safety interests of callers and called parties with respect to calling party number identification on intrastate calls. As to that percentage of calls which are received on an interstate basis, the called party is indifferent as to whether any privacy indicator received with that call was generated on a per-call or per-line basis. There is no confusion created by the fact that callers in some states have access to per-line blocking while

² NASUCA does not concede that it would be either lawful or appropriate for the FCC to preempt state regulation of this primarily intrastate service. See Louisiana Pub. Serv. Comm'n v. FCC, 476 U.S. 355 (1986); 47 U.S.C. § 152(b). One reason for this Petition for Reconsideration, however, is the statement contained at Paragraph 70 of the Order that "To the extent that inconsistent regulations cannot be accommodated simultaneously for interstate and intrastate caller ID services, some further preemption of state regulations may become necessary." That is precisely NASUCA's concern here because of the evidence that the FCC Order may indeed be creating technically irreconcilable blocking regimes for intrastate and interstate calls in many states.

callers in other states do not. The confusion would arise if the FCC -- after five years of state actions -- seeks to impose a single preemptive interstate standard on callers in all states. The confusion would arise if a caller is told that the per-line blocking mechanism on which they have relied will now only work on some calls, but not others.³

The fact is that there is currently no such service as "interstate Caller ID." Nor is it clear that there will ever be such a service. Particularly for residential and small business customers, Caller ID likely will continue to be provided as an optional service by local exchange companies. Today, Caller ID devices generally cannot identify "out-of-area" telephone numbers. In the future, with greater Signalling System 7 connectivity, it will be possible to identify numbers of interstate calls as well, but the nature of the service will remain essentially the same. For the FCC to assert a federal interest sufficient to preempt state rules on privacy protections necessary for Caller ID seems particularly unnecessary and inappropriate at this time.

³ The FCC's concern expressed in Paragraph 42 that per-line blocking might prevent the passage of telephone numbers on emergency calls also seems misplaced. First of all, Caller ID blocking does not prevent the passage of one's telephone number on enhanced 911 emergency telephone services. Secondly, the vast majority of emergency calls are obviously made on an intrastate basis and state regulatory authorities are therefore in the best position to address this issue. Indeed, several states have required that law enforcement agencies be given access to per-line blocking even where that service is not available to the general public. Yet, that effort to accommodate the needs of local law enforcement personnel may be preempted under the FCC Order as well.

NASUCA does not challenge the FCC's decision to reject proposals which would mandate per-line blocking on all interstate calls. The FCC must not, however, prohibit the use of per-line blocking on interstate calls where such a prohibition is either technically infeasible or would be impossible to implement without preempting the constitutions, statutes, regulations, or PUC-approved tariffs in more than two thirds of the states in the Nation.

B. PRIOR STATE ACTIONS

While the FCC had issued no definitive rulings on the Caller ID issues prior to March 29, 1994, Public Utility Commissions across the Nation have been addressing this issue since 1988. According to the most recent information available to NASUCA⁴, more than forty states and the District of Columbia have considered Caller ID tariffs filed by local exchange companies. Nearly all of those states require that free per-call blocking be provided wherever Caller ID service is available. More importantly -- and what the FCC may not be aware of on the basis of the outdated record in this proceeding -- a substantial majority of the states also now require local exchange companies to provide at least some form of per-line blocking as well. Per-line blocking is available to all customers (either for free or for a charge) in more than twenty states, and per-line blocking is available in at

⁴ Information regarding the state commission rulings on Caller ID has been obtained from an annual survey performed by the New York Consumer Protection Board, a NASUCA member, and from the National Association of Regulatory Utility Commissioners (NARUC).

least sixteen other states, for certain customers such as domestic violence and law enforcement agencies and individuals with special privacy and safety needs. Because the FCC Order would prohibit the use of per-line blocking on interstate calls whether provided universally or to specific at-risk groups, see Order ¶ 40, the FCC Order thus calls into question the current per-line blocking requirements in more than two thirds of the states in the nation.

The state commissions have reached these determinations in most cases after hearing substantial testimony from citizens in their states concerning the relative harms and benefits of Caller ID and various blocking alternatives. Those hearings showed, for example, that while the inadvertent revelation of one's telephone number may be just a nuisance for some people, it can be a matter of life or death for a victim of domestic violence seeking refuge from an abusive spouse.⁵

In 1990, the Nevada Public Service Commission was among the first Commissions to address the issue of per-line blocking for Caller ID. In Re Central Telephone Company, Docket No. 90-333, (August 20, 1990). After reviewing the record in the proceeding, the Commission ordered CentTel to offer Caller ID with both free

⁵ In Pennsylvania, more than 100 persons testified in hearings across the Commonwealth, including two domestic abuse victims who testified in closed sessions as "Jane Doe" and described the dangers of the unintended transmission of telephone numbers as a result of Caller ID. In California, 12 hearings were held around the state, with more than 200 persons expressing their views on Caller ID. In addition, more than 2,500 persons wrote letters to the California PUC concerning this issue. Similar public input was received by state commissions across the Nation.

per-call and free per-line blocking for residential customers. The Commission found:

Public concerns with regard to the "per-call" blocking feature are that it is, at best, time consuming and, at worst, ineffective. Dialing an extra three or four digits before making a call is a burden. Also, the three digit blocking code might not be dialed when the phone is used by a child, a forgetful person or a visitor; thus, a private phone number may be inadvertently revealed to an unwanted person.

Residential customers should have the option of restricting their number from being transmitted to the called person without the need of dialing an additional three or four digits before placing each call. The "per-line" blocking option should be offered free to all residential customers. ...

Id. slip op. at 14.

Similar concerns were recognized by the Massachusetts Department of Public Utilities in 1992. In Massachusetts, New England Telephone and Telegraph Company proposed offering Caller ID with free per-call blocking. The Massachusetts Department of Public Utilities after reviewing the evidence stated:

The Company has argued that per-call blocking properly balances the privacy interests of the called and calling party without unduly diminishing the value of Caller ID. While we agree with the Company that per-call blocking affords some protection of the calling party, we do not agree that the provision of per-call blocking alone sufficiently protects callers' privacy interests. In particular, the Department is concerned that NET's offering of Phonesmart without per-line blocking unduly diminishes the legitimate interest of callers to control the dissemination of their telephone numbers.

Customers in essence, already have a form of per-line blocking because presently they are not required to take an affirmative step to prevent the dissemination of their telephone numbers when placing a call. If the Department were to approve Caller ID with only the proposed per-call blocking option, customers would lose the option of retaining their current network configuration. Without the choice of per-line blocking, the added effort to block some or all calls would create a burden on the calling party. We consider it appropriate for individual customers to determine whether they would prefer per-call blocking or per-line blocking. In this manner, customers can determine for themselves to what extent they wish to disseminate their telephone numbers.

In addition, customers with non-published numbers may not want their telephone numbers transmitted to a Caller ID subscriber, and certain individuals may be reluctant to place sensitive, work-related telephone calls from their homes if Caller ID is available. Although the availability of per-call blocking addresses these concerns to some extent, requiring the calling party to take an affirmative step to block the release of his or her telephone number for all calls, or any one particular call, requires an effort that simply was not required before the offering of Caller ID.

Re: New England Telephone and Telegraph Company, 127 PUR 4th 383, 390-391 (1991). New England Telephone and Telegraph Company was ordered to provide per-call blocking and per-line blocking at no charge. Id. at 392-393.

In New York, the Public Service Commission addressed the issue of Caller ID blocking only after establishing a comprehensive set of privacy principles against which all proposed new telecommunications services would be measured. Re Privacy in

Telecommunications, 122 PUR 4th 10 (N.Y.P.S.C. 1991). In the Caller ID decision, the New York PSC concluded:

Caller ID presents not an issue of good versus evil, but a clash of two goods: the privacy rights of callers (which include, for example, the right to conceal their phone numbers from telemarketers, but not a right to harass with anonymity) and the privacy rights of call recipients (which include, for example, the right to be left alone but not a right to spy on a spouse). Seen in that light, the blocking issues should be resolved in a way that offers each customer the greatest opportunity to advance his or her own interests without unduly compromising the interests of others. And the Privacy Principles can facilitate the decision by offering guidelines and presumptions.

Re: New York Telephone Company, 132 PUR 4th 525, 534-535 (N.Y.P.S.C. 1992). The Commission ordered free per-line blocking, finding that:

Per-line blocking does not necessarily permit a caller to maintain more of a preexisting privacy level, but it provides a more convenient way to do so, by obviating the dialing of a code before each call. It has a greater effect than per-call blocking on the usefulness of Caller ID to call recipients, however, for it denies them the information that a call is being singled out for blocking, and it generally reduces the number of calls as to which CNI will be provided. The convenience to callers of per-line blocking is something that should be offered, consistent with general policies in favor of affording customers a wide range of choices and specifically with Privacy Principle 4, endorsing a range of privacy protection. And since per-line blocking costs no more than per-call blocking to provide, it, too should be offered free of charge.

(footnote omitted) Id. at 535.

In Pennsylvania, the Commonwealth Court concluded that under the Pennsylvania Wiretap Act and the privacy protections contained in the Pennsylvania Constitution, Caller ID was impermissible, even with the per-call blocking mechanism that had originally been proposed by the Pennsylvania Office of Consumer Advocate in that case. The Commonwealth Court ruled that:

the potential for privacy violations still exists for that undefinable segment of the general public that lacks notice of a blocking option; cannot afford the additional expense if blocking were available for a fee; forgets to trigger the blocking mechanism in cases of emergency or trauma; *ad infinitum*.

Hence , consumers of telephone service should not suffer an invasion, erosion or deprivation of their privacy rights to protect the unascertainable number of individuals or groups who receive nuisance, obscene or annoying telephone calls which can already be traced or otherwise dealt with by existing services provided by Bell. Guided by the wise observations in *Murray*, this Court will unhesitatingly uphold the judicial tradition of "jealous regard of individual privacy." In so doing, this Court concludes that Caller*ID either in its blockable or unblockable format, violates the privacy rights of the people of this Commonwealth. In the framework of a democratic society, the privacy rights concept is much too fundamental to be compromised or abridged by permitting Caller*ID.

Barasch v. Pennsylvania Public Utility Commission, 133 Pa. Cmwlth. 285, 576 A.2d 79, 88-89 (Pa. Cmwlth. 1990) (emphasis added, italics in original). On further appeal, the Pennsylvania Supreme Court upheld the Commonwealth Court's ruling that Caller ID without blocking violated Pennsylvania's Wiretap Act, but did not reach the question of whether the availability of blocking would render the

service lawful. Barasch v. Bell Telephone Company of Pennsylvania, 529 Pa. 523, 605 A.2d 1198, 1203 (1992).

In late 1993, the Pennsylvania General Assembly passed, and the Governor of Pennsylvania signed into law, a statute allowing Caller ID to be offered, but only if the service was offered with free per-call blocking and a universally available option for free per-line blocking. See, 66 Pa.C.S. § 2906. Subsequent to the passage of this statute, Bell Atlantic - Pennsylvania, Inc. filed a tariff requesting Commission approval to offer Caller ID service in its territory with both free per-call and free per-line blocking.

NASUCA cites these state rulings -- and there are numerous others like them -- not because we seek an FCC ruling mandating per-line blocking. Rather, we ask only that the FCC respect the findings that have resulted from more than five years of painstaking analysis and debate that have gone into the dozens of state commission, court and legislative rulings on this issue.

It should be noted in this regard that the per-line blocking mechanism is optional for callers in most of the states which have adopted this mechanism. That is, individuals affirmatively choose to obtain per-line blocking when they believe it is necessary to do so. In some of those states, consumers are required to pay an initial or recurring charge for per-line blocking and have demonstrated a willingness to do so, because of the importance of this privacy issue to them. On the other hand, the FCC should recognize that the local exchange companies in most

states have gone forward with the filing and implementation of Caller ID tariffs even in those states where per-line blocking is universally available at no cost to consumers. Thus, it is clear that per-line blocking is an important and valuable tool for consumers who wish to protect the privacy of their telephone numbers; yet, despite the early concerns expressed by some telephone companies, the widespread availability of per-line blocking has not prevented the deployment of Caller ID in those states.⁶ The individual states have balanced the interests of all telephone users and the telephone companies in developing blocking proposals that were found to be appropriate in those states. It is certainly late in the process -- and would be extremely disruptive -- for the FCC either to directly or indirectly preempt those state efforts.

C. INADEQUACY OF CPE REMEDY

In Paragraph 48, the FCC suggests that its prohibition of per-line blocking is not harmful to privacy interests because it can be circumvented by customer premises equipment (CPE) which could insert a blocking prefix on all outgoing calls "for as little as \$40.00 per unit." NASUCA respectfully submits that there is a major difference for many consumers between the free-per line blocking permitted in many states, and \$40.00 per unit for CPE.


⁶ Indeed, the value of Caller ID to subscribers should be enhanced by the added availability of interstate calling numbers. The fact that a small percentage of those additional calling numbers may be blocked on a per-line basis does not alter the fact that the net value of the service to subscribers will increase when interstate calling numbers become available.

This is true for financially pressed domestic violence agencies as well as low-income residential consumers. It is not clear, for example, whether the CPE to which the FCC refers must be attached to each telephone set, which would greatly increase the cost for most consumers -- and particularly domestic violence agencies and their employees and volunteers. Moreover, it is extremely difficult to articulate what federal interest is served by effectively prohibiting the use of per-line blocking for our poorest citizens, while making it available to anyone willing to spend \$40.00 for another gadget on his or her telephone. Indeed, as noted in the Pennsylvania Commonwealth Court decision quoted above, the mere possibility that a charge might be imposed for protecting one's privacy rights through blocking was a factor in leading that court to conclude that Caller ID, even with per-call blocking, was illegal and unconstitutional.

IV. CONCLUSION

For the reasons set forth above, the National Association of State Utility Consumer Advocates respectfully requests that the Federal Communications Commission reconsider and amend its order in the above-captioned rulemaking docket. The FCC should make it clear that the use of per-line blocking will not be prohibited as a means of preventing the transmission of a caller's telephone number to called parties on interstate calls. Instead, a caller's blocking request should be honored on interstate calls regardless of whether it is generated on a per-call or a per-line basis.

Respectfully submitted,


Irwin A. Popowsky
Consumer Advocate of Pennsylvania

Mary C. Kenney
Assistant Consumer Advocate

For:
National Association of State
Utility Consumer Advocates
1133 15th Street, N.W.
Suite 575
Washington, DC 20005
(202) 727-3908

Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120
(717) 783-5048

DATED: May 16, 1994
14381

Certificate of Service

I hereby certify that an original and eleven copies of the foregoing document, Petition for Reconsideration of the National Association of State Utility Consumer Advocates, was served this 16th day of May, 1994 by Federal Express, on:

Mr. William F. Caton
Acting Secretary
Federal Communications
Commission
1919 M Street, N.W.
Room 222
Washington, DC 20554



Mary C. Kenney
Assistant Consumer Advocate

EX PARTE OR LATE FILED

RECEIVED

JUL 15 1994

1994-01

FCC MAIL ROOM

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

R E S O L U T I O N

**Urging the Adoption of a Billed Party Preference
System for 0+ InterLATA Calls**

- WHEREAS, currently "0+" calls, including calling card, collect and third-party billing calls, from payphones, hotels, motels, airports, prisons and other aggregator locations are sent to the operator services provider (OSP) to which the premises owner or payphone provider presubscribes;
- WHEREAS, OSPs generally compete for premises owners and payphone providers by offering commissions on 0+ calls made from the phones presubscribed to them, rather than competing for end users on the basis of price and quality of the service offered to the consumer;
- WHEREAS, customers are currently able to select an OSP of their choice when using a payphone or telephone at an aggregator location only by dialing 10XXX or other access codes prior to dialing zero plus the number being called;
- WHEREAS, the use of 10XXX and other access codes may be intentionally or unintentionally restricted at certain payphones and aggregator locations and such dialing can be confusing to customers;
- WHEREAS, consumer advocates, state commissions and federal regulators have received many complaints over the level of charges from resulting from unintended or inadvertent selection of an OSP at a payphone, hotel, motel, airport or other aggregator location;
- WHEREAS, consumer advocates, state commissions and federal regulators have received complaints from billed parties over the level of charges from OSPs from collect calls originating from prisons and jails;

WHEREAS, Billed Party Preference allows the billed party to use the carrier of his or her choice by having calling cards presubscribed, and having collect and third party calls routed via the party's chosen carrier;

WHEREAS, Billed Party Preference would require OSPs to shift their competitive focus from the aggregators, such as premises owners or payphone providers, to the end users who actually pay for the service;

WHEREAS, the Federal Communications Commission estimated, in a November 1992 report pursuant to the Telephone Operator Consumer Services Information Act, that Billed Party Preference would likely enable consumers to save \$280 million per year by avoiding OSPs with rates higher than the AT&T/MCI/Sprint average;

WHEREAS, Billed Party Preference should result in increased customer satisfaction over prices charged and quality of service provided and would eliminate customer confusion;

THEREFORE, BE IT RESOLVED that the National Association of State Utility Consumer Advocates urges the adoption of a ubiquitous system of Billed Party Preference for all 0+ calling from all paystations, motels, hotels, airports, prisons and other aggregator locations nationwide, and from all private business and residence phones;

AND, BE IT FURTHER RESOLVED, that NASUCA shall file a copy of this resolution with the Federal Communications Commission in its docket examining Billed Party Preference;